CONSTITUTION
OF THE
NATIVE TRIBE OF KALTAG
KALTAG, ALASKA

PREAMBLE

We, the Native Tribe of Kaltag, assert our freedom as a sovereign people in a historical relationship with the United States of America. In this assertion, we adopt and institute this Constitution to affirm our faith in fundamental Native rights and traditions and, to promote our tribe's social, cultural, educational, economic and political progress under the inherent sovereign authority of our tribe. This constitution shall supersede any constitution previously adopted by the Kaltag Tribe.

ARTICLE 1 - NAME

The name of this organization shall be the Native Tribe of Kaltag.

ARTICLE 2 - TERRITORY

The territorial jurisdiction of the Native Tribe of Kaltag shall extend to all lands and waters constituting the Indian Country of the Native Tribe of Kaltag as defined by federal and tribal law. To the extent consistent with federal law, such lands and waters shall include, but are not limited to, all lands and waters customarily and traditionally used by the Kaltag people, including lands withdrawn for selection by Kaltag under the Alaska Native Claims Settlement Act (P.L. 92-20), all fee lands and allotments within the traditional lands of Kaltag, regardless of the issuance of any patent or unrestricted fee title to any such lands.

ARTICLE 3 - MEMBERSHIP

Section 1. Base Membership Roll. The membership of the Native Tribe of Kaltag shall consist of all Alaska Natives whose names appear on the base membership roll adopted by the Kaltag Tribal Council at the passage of this Constitution, provided that the Council may correct the base membership roll within two years following Secretarial approval of this Constitution.

Section 2. Descendants of Members. Lineal descendants of members listed on the base roll who are at least one-eighth Alaska Native are eligible to be members of the Native Tribe of Kaltag subject to the provisions of this Constitution and to the ordinances enacted pursuant to this Constitution.

Section 3. Adoption of Members. The Tribal Council shall have the option to adopt any person who is at least one-eighth Alaska Native who is not a descendant of any members listed on the base roll, according to the provisions of tribal membership ordinances.

Section 4. Membership Ordinances. The Council shall have the power to enact ordinances and resolutions, not inconsistent with this Constitution, prescribing rules and regulations governing membership, including application and appeal procedures, loss of membership, and adoption of members.

ARTICLE 4 - GOVERNING BODY

Section 1. Name. The governing body of the Native Tribe of Kaltag shall be the Kaltag Tribal Council, also referred to as the Council or Tribal Council in this

Constitution. The Council shall represent the Tribe and shall exercise the powers of the tribe cited in this Constitution.

Section 2. Composition. The Council shall consist of five tribal members who shall be elected by a majority vote of the qualified voters of the tribe. All five Council members shall be entitled to vote, except on matters involving a conflict of interest as defined by Section 7 of this article. Officers shall be elected by the qualified voters.

Section 3. Quorum. Three Council members shall constitute a quorum for the transaction of business at any meeting of the Tribal Council.

Section 4. Officers. The Council shall include a First Chief, Second Chief, Secretary/Treasurer, and two (2) Council members.

Section 5. Qualifications for Tribal Council. Any enrolled member of the Native Tribe of Kaltag, eighteen (18) years of age or older and living in Kaltag, shall be qualified to serve on the Tribal Council.

Section 6. Terms of Officers. The officers shall hold office for a term of two years. The terms of the five Council members shall be staggered as follows: at the first general election following adoption of this Constitution, the voters shall elect a First Chief, Secretary/Treasurer, and one (1) general member for a two year term. At the same election, the Second Chief and one (1) council member shall be elected for a one year term. Thereafter, at each general election, the voters shall elect the Chiefs and other council members for two (2) year terms.

Section 7. Conflict of Interest. No Council member shall vote on any matter, including but not limited to employment contracts, project funding, project allocations and appointments to tribal committees, in which he or she has a personal interest. A personal interest includes involvement of his or her spouse, children, siblings, parents and grandparents. Council members present when such an issue is decided shall reveal such conflict of interests prior to any vote.

Section 8. Traditional Chief. A Traditional Chief may be elected by the general membership to serve for life in an advisory capacity to the Council.

ARTICLE 5 - DUTIES OF OFFICERS

Section 1. Assuming Duties. Newly elected officers shall assume their respective office and duties immediately upon being elected.

Section 2. First Chief. The First Chief shall preside at all meetings of the tribe and shall have general supervision of the affairs of the Tribal Council. The First Chief will sign, with either the Second Chief or Secretary/Treasurer, all contracts, leases, or other documents approved by a quorum of the Council. He or she shall vote in all cases except on the matter of his or her removal or when there is a conflict of interest. When the Council is not in session, he or she shall be the official representative of the Tribe.

Section 3. Second Chief. The Second Chief shall assist the First Chief when called upon to do so. In absence of the First Chief, he or she shall preside and when so presiding shall have the rights, privileges, duties and responsibilities of the First Chief.

ARTICLE 6 - MEETINGS

Section 1. Regular Meeting of the Tribal Council. Regular meetings of the Council shall be held monthly: the time, place and date to be designated by the Council. Notice of the meetings shall be posted at least five (5) days prior to meetings in three (3) public places in Kaltag. All regular meetings shall be open to the tribal membership.

Section 2. Special Meetings. The Council or the Chief may call a special meeting upon giving at least a twenty-four (24) hour Notice to tribal members, posted in at least three public places in Kaltag.

Section 3. Emergency Meetings. The Council may meet for an emergency meeting without Notice when emergency circumstances warrant such a meeting.

Section 4. Executive Session. The Tribal Council may move to meet in a closed executive session during regular, special or emergency meetings of the Tribal Council when the subject matter concerns child welfare, personnel, litigation, tribal enrollment and other matters made confidential by tribal ordinance.

Section 5. Tribal Membership Meetings. A meeting of the tribal membership of the Native Tribe of Kaltag shall be held once a year. The date, time and place shall be determined by the Council. A tribal membership meeting may also be called by the Council upon receipt of the petition signed by at least thirty percent (30%) of the voting tribal members. In the event that the Council fails to call for an election within 60 days of receiving a petition by the tribal membership, tribal members may hold a tribal membership meeting to conduct an election. Twenty-five (25%) of the qualified

voting tribal members shall constitute a quorum at tribal membership meetings. Notice shall be posted in at least three (3) public places two weeks prior to tribal membership meetings.

ARTICLE 7 - REMOVAL, RECALL, FORFEITURE, VACANCIES

Section 1. Removal. Any Tribal Council member found guilty by the Tribal Council of neglect of duty, gross misconduct in office, or an offense involving dishonesty may be removed from office by the Tribal Council. Three (3) Tribal Council members must vote in favor of the removal. A Council member subject to removal shall first be given ten (10) days notice in writing of the charges against him or her and be given an opportunity to answer such charges before the Tribal Council. If the person subject to removal fails to appear before the Council, the Council shall preside over the meeting at which his or her removal is being considered. All questions of removal under this Section shall be resolved by the Tribal Council and the decision of the Tribal Council shall be final and may not be reviewed by the Tribal Court.

Section 2. Recall. Any member of the Tribal Council may be recalled by the tribal voters if a petition requesting such recall signed by at least sixty percent (60%) of the qualified voters is presented to the Tribal Council. The Tribal Council shall within sixty (60) days of receipt of such petition call an election to consider the recall of the named official. If a majority of the voters vote in favor of the recall, the official shall be removed. No official may be subjected to recall proceedings more than once in the course of his or her term. If the Council fails to call a special election to consider the recall, the tribal membership may hold a tribal membership meeting to conduct such business.

Section 3. Forfeiture. Any member of the Tribal Council who submits a written resignation, dies, is convicted of a felony while in office, or is absent from three consecutive monthly Council meetings without being excused by the Council shall automatically forfeit his or her office.

Section 4. Vacancies. Any vacancy in the Tribal Council shall be filled by appointment by the Tribal Council. A Tribal Council member appointed to fill a vacancy shall serve for the unexpired portion of the term of his or her predecessor.

ARTICLE 8 - ELECTIONS

Section 1. Voter Qualifications. Any duly enrolled member of the Native Tribe of Kaltag eighteen (18) years of age or older who is physically present for an election shall be qualified to vote.

Section 2. General Guidelines for Elections. All elections shall be conducted by secret ballot. Unless otherwise specified by this Constitution, the outcome of an election shall be determined by majority vote of the qualified voters casting their ballots during the election unless otherwise specified by this Constitution.

Section 3. Tribal Council Elections. The Tribal Council shall set a date every year for regular elections to be held in October in Kaltag, and shall give at least twenty (20) days Notice of such elections, posted in at least three (3) public places in Kaltag. If the Tribal Council fails to hold Tribal Council Elections the tribal membership may hold a tribal membership meeting under the provisions of Article 6, Section 5 of this Constitution to conduct Tribal Council elections.

Section 4. Special Elections. The Council may, by resolution, call a special election upon giving at least a twenty (20) day Notice to the tribal members, posted in at least three (3) public places in Kaltag.

Section 5. Election Committee. The Council shall appoint an election committee of three tribal members each year prior to the election to supervise, administer, and conduct all tribal elections. The election committee shall certify the election of tribal officials. In the event of election disputes, the determination of the election committee shall be final. No member of the election committee shall at the same time be a member of the Council or a candidate for a position on the Council.

Section 6. Election Ordinance. An election ordinance, consistent with this Constitution, shall be adopted by the Council following the effective date of this Constitution and shall set forth the procedures to be followed in conducting each of the various types of elections called for in this Constitution.

ARTICLE 9 - POWERS OF THE NATIVE TRIBE OF KALTAG

Section 1. Powers. The Tribal Council shall exercise the following powers by appropriate activity, motion, resolution or ordinance, subject to any limitations imposed by this Constitution or applicable laws of the United States:

a. To consult, negotiate, contract or conclude agreements with federal, state, local and tribal governments on activities which may affect the Native Tribe of Kaltag.

b. To promote and protect the peace, health, education and general welfare of the members of the tribe, and to administer charity and such other services as may contribute to the social and economic development of the tribe and its members.

c. To levy and collect taxes, fees and assessments for the tribal purposes.

d. To regulate the internal procedures of the Tribal Council.

e. To encourage, guard and foster traditional cultural practices of the Kaltag Native people, including the arts, crafts, religion, language and customs of the Native people of Kaltag.

f. To prevent the sale, disposition, lease or encumbrance of tribal lands, interests in lands or other tribal assets without the consent of the Native Tribe of Kaltag in accordance with Article 10, Section 1 of this Constitution.

g. To acquire property and accept gifts.

h. To administer community assets including funds and manage all economic affairs and enterprises of the community.

i. To engage in tribal economic development enterprises for the benefit of tribal members.

j. To provide for the maintenance of law and order and the administration of justice, including the establishment of appropriate tribal courts and other judicial bodies.

k. To enact ordinances consistent with this Constitution for the conduct and administration of all tribal functions and policies.

l. To pass ordinances governing future membership, loss of membership and the adoption of members.

m. To regulate inheritance among members whether by intestacy or otherwise.

n. To administer any funds within the control of the Tribe.

o. To regulate child custody and other domestic relations among tribal members.

p. To protect and preserve the wildlife and natural resources within the area under the jurisdiction of the tribe or upon which its members rely for subsistence.

q. To regulate and control the use of natural resources within those areas under the jurisdiction of the Tribe.

r. To employ legal counsel, the choice of counsel, the fixing of fees, subject to the approval of the Secretary of the Interior, so long as it is required by federal law.

s. To join and/or charter housing authorities.

t. To protect members' rights in personal property.

u. To zone, exercise the power of eminent domain and otherwise regulate all land use within those areas under the jurisdiction of the tribe.

v. To enact ordinances, procedures and regulations necessary to give effect to any provisions of this Constitution and to exercise any power not prohibited by federal law.

Section 2. Omissions. Any rights and powers vested in the Native Tribe of Kaltag but not expressly referred to in this Constitution shall not be lost by reason of their omission, but may be exercised by the Council, upon approval by referendum.

ARTICLE 10 - POWERS RESERVED TO MEMBERSHIP

Section 1. Tribal Lands. The following powers are specifically reserved to the qualified voters of the Native Tribe of Kaltag acting through a tribal membership meeting or a properly called election:

(a) No lands or interests in lands owed by the Tribe may be sold, encumbered for terms longer than 20 years or disposed of without the favorable vote of at least a majority of the qualified voters.

ARTICLE 11 - POPULAR PARTICIPATION IN GOVERNMENT

Section 1. Initiative. The qualified voters of the Tribe shall have the right to bring issues to a vote, not inconsistent with this Constitution, through a valid petition signed by at least thirty percent (30%) of the qualified voters. The Council shall call an election to be conducted by the election committee no later than sixty (60) days after

receipt of the petition. If the Council fails to act on the petition, the issue may be brought before a tribal membership meeting. An affirmative vote by a majority of qualified voters at a tribal membership meeting where a quorum has been established, shall be required to determine the Tribe's position on the issue submitted to a vote.

Section 2. Referendum. The Council by an affirmative vote of at least (4) of its members, may refer issues to the tribal membership in a tribal election. Such an election shall be conducted by the election committee within sixty (60) days of such Council decision. An affirmative vote by a majority of the qualified voters at the tribal membership meeting where a quorum is established shall be required to determine the Tribe's position on the issue submitted to a vote.

Section 3. Initiative and Referendum Decisions. The decision of the voters in both initiative and referendum elections shall be binding on the Council and the Tribe and shall remain in full force until amended or rescinded by subsequent action of the voters or expires by its own terms.

ARTICLE 12 - RIGHTS OF MEMBERS

Section 1. Access to Tribal Records. Tribal members shall have the right to review all tribal records including financial records at any reasonable time in accordance with procedures established by the Tribal Council except in child welfare cases, litigation, personnel, enrollment records and confidential records as defined by tribal ordinance.

Section 2. Proposal of Ordinances. Tribal members have the right to propose ordinances to the Tribal Council. Tribal members have the right to be present and

allowed to speak at tribal meetings when ordinances are being considered and/or voted upon.

Section 3. Indian Civil Rights. The Tribal shall provide to all persons within its jurisdiction the rights guaranteed by the Indian Civil Rights Act of 1968, as amended. In summary, the Tribal Government shall:

(1) Not prohibit the free exercise of speech, press, religion or rights of the people to assemble peacefully or file grievances against the tribal government.

(2) Not allow unreasonable search and seizure or issue search warrants without probable cause.

(3) Not try anyone for the same offense twice.

(4) Not make any person testify against himself in a criminal matter.

(5) Not take private property for public use without paying the owner the fair market value.

(6) Not deny a person the right to a speedy public trial. A speedy public trial is generally assumed to be a trial within ninety (90) days or less. The accused person must be informed of the nature of the crime he is accused of, told about the witnesses against him, be allowed to have witnesses testify in his favor and be allowed a lawyer at his own expense.

(7) Not impose excessive bail or fines, nor impose cruel or unusual punishments. Tribal courts cannot impose a penalty greater than $5,000 or one (1) year in jail, or both for the one offense.

(8) Give all persons equal protection under tribal laws.

(9) Not pronounce anyone guilty of a crime or civil violation without a fair trial. The tribal government shall not pass an ordinance or change penalties, after an incident (Ex Post Facto).

(10) Provide anyone accused of an offense punishable by jail time the right to a trial by jury of no less than six persons.

ARTICLE 13 - SOVEREIGN IMMUNITY OF KALTAG

Nothing in this Constitution shall be deemed or construed to be a waiver of the sovereign immunity of the Native Tribe of Kaltag, which may only be waived by express resolution of the Tribal Council, after receiving an affirmative vote of the majority of the qualified voters, and only to the extent specified in such resolution and permitted by this Constitution and federal law, provided, however, that the Tribal Council shall have the authority to waive the sovereign immunity of the Native Tribe of Kaltag solely for the purposes of satisfying the conditions or requirements of Federal or State grants or contracts. Waivers of sovereign immunity shall not be general but must be specific and limited to duration, grantee, transaction, property or funds of the Tribe subject to the waiver, as well as specific to the court having jurisdiction and applicable law.

A waiver of sovereign immunity of the tribe shall not be deemed a general consent of the levy of any judgment, lien or attachment upon property of the Tribe other than property specifically pledged, assigned or otherwise explicitly subject to levy in the waiver resolution.

ARTICLE 14 - AMENDMENTS

Section 1. Amendments by the Tribe. This Constitution may be amended by a majority vote of the qualified voters of the Native Tribe of Kaltag voting in an election called for that purpose in which at least thirty percent (30%) of the qualified voters take part.

The Kaltag Tribal Council shall call such an election on a proposed constitutional amendment at the request of either three (3) of the five (5) Council members or upon a petition by at least thirty percent (30%) of the entire tribal membership eighteen (18) years of age or older.

ARTICLE 15 - SAVINGS AND SEVERABILITY

Section 1. All enactments and official acts of the Native Tribe of Kaltag promulgated or adopted prior to the effective date of this Constitution shall remain in full force and effect to the extent they are not inconsistent with any provision of this Constitution, and in the event of any conflict with this Constitution, the provisions of this Constitution shall control.

Section 2. If any provision of this Constitution shall, in the future, be declared invalid by a court of competent jurisdiction, the invalid provision shall be severed and the remaining provisions shall continue in full force and effect.

ADOPTION

This Constitution shall be adopted when adopted by a majority vote of the qualified voters of the Native Tribe of Kaltag voting in an election called for that purpose.

CERTIFICATE OF RESULTS OF ELECTION

The attached Constitution of the Native Tribe of Kaltag was submitted to the qualified voters of the tribe and on October 6, 1992, was duly (adopted)(rejected) by a vote of 51 for and 2 against and 5 cast ballots found spoiled or mutilated in an election.

Irene Solomon
Chairman, Election Board

Member, Election Board

Member, Election Board